

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works		(2) MEETING DATE May 23, 2006		(3) CONTACT/PHONE Richard Marshall Development Services Engineer (805) 781-5280	
(4) SUBJECT Hearing to Consider an Appeal of the Templeton Road Improvement Fee by D. Wasserman					
(5) SUMMARY OF REQUEST Donald Wasserman has applied for a building permit (PMT 2002-11169) to construct a winery facility on El Pomar Drive in the Templeton Road Fee area. The fee associated with this permit application is \$51,390. Mr. Wasserman has filed an appeal of the fee.					
(6) RECOMMENDED ACTION It is our recommendation that your Honorable Board deny the appeal.					
(7) FUNDING SOURCE(S) N/A		(8) CURRENT YEAR COST N/A		(9) ANNUAL COST N/A	
(10) BUDGETED? <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A					
(11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST): Planning & Building, County Counsel					
(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, How Many? _____ <input type="checkbox"/> Permanent _____ <input type="checkbox"/> Limited Term _____ <input type="checkbox"/> Contract _____ <input type="checkbox"/> Temporary Help _____					
(13) SUPERVISOR DISTRICT(S) <input checked="" type="checkbox"/> 1st, <input type="checkbox"/> 2nd, <input type="checkbox"/> 3rd, <input type="checkbox"/> 4th, <input type="checkbox"/> 5th, <input type="checkbox"/> All		(14) LOCATION MAP <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A		(15) Maddy Act Appointments Signed-off by Clerk of the Board <input checked="" type="checkbox"/> N/A	
(16) AGENDA PLACEMENT <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Hearing (Time Est. _____ 5 min _____) <input type="checkbox"/> Presentation <input type="checkbox"/> Board Business (Time Est. _____)		(17) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions (Orig + 4 copies) <input type="checkbox"/> Contracts (Orig + 4 copies) <input type="checkbox"/> Ordinances (Orig + 4 copies) <input checked="" type="checkbox"/> N/A			
(18) NEED EXTRA EXECUTED COPIES? <input type="checkbox"/> Number: _____ <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A		(19) APPROPRIATION TRANSFER REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A			
(20) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(21) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		(22) Agenda Item History <input checked="" type="checkbox"/> N/A	
(23) ADMINISTRATIVE OFFICE REVIEW <div style="text-align: right; font-family: cursive; font-size: 1.2em;">OK Leslie Brown</div>					

Reference: 06MAY23-H-1

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SAN LUIS OBISPO COUNTY DEPARTMENT OF PUBLIC WORKS

Noel King, Director

County Government Center, Room 207 • San Luis Obispo CA 93408 • (805) 781-5252

Fax (805) 781-1229

email address: pwd@co.slo.ca.us

TO: Board of Supervisors

FROM: Richard Marshall, Development Services Engineer *RM*

VIA: Glen L. Priddy, Deputy Director of Public Works - Engineering Services *GP*

DATE: May 23, 2006

SUBJECT: Hearing to Consider an Appeal of the Templeton Road Improvement Fee by D. Wasserman

Recommendation

It is our recommendation that your Honorable Board deny the appeal.

Discussion

Donald Wasserman has applied for a building permit (PMT 2002-11169) to construct a winery facility on El Pomar Drive in the Templeton Road Fee area. The fee associated with this permit application is \$51,390. Mr. Wasserman has filed an appeal of the fee. The appeal letter is attached as Exhibit A.

Basis for adjustment or waiver of the fee. Section 13.01.050 of the San Luis Obispo County Code states that an adjustment or waiver of the fee may be granted, "based on the absence of any reasonable relationship or nexus between the traffic-generating impacts of that new development, and either the amount of the fee imposed or the type of road facilities or improvements to be financed by the fee."

The Templeton Circulation Study establishes the reasonable relationship, or nexus, required for the imposition of fees within its study area. Mr. Wasserman filed the permit application on May 24, 2001 but the submittal was rejected as incomplete and not received again by the Planning and Building Department until January 15, 2002. The application was processed by Public Works on February 5, 2002. At that time, the road fee amount was \$8,215 based on the most recent update of the Study. The Study and associated fees have been updated three times since the initial submittal, with the latest having been adopted by the Board of Supervisors on January 10, 2006. The fees recommended in that update became effective March 13, 2006. The updated road fee is \$51,390. The Public Works Department sent a notice of the Road Improvement Fee increase by mail on March 1, 2006.

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All new developments in the area will contribute to the need for road and other transportation improvements the study recommends. The improvement package is designed to provide the necessary capacity in the network of arterial and collector streets to meet the County's established level of service criteria, as traffic volumes increase with additional development. The road improvement fee was designed to apportion the cost of the needed improvements to all new development, based on the amount of traffic generated.

Evaluation of appeal issues. In the letter attached as Exhibit A, Mr. Wasserman raises several issues, which are paraphrased below, along with staff response:

Appeal point: It's difficult to get plans approved (codes and required changes).

Response: Changes in design for code compliance, or design changes on the part of the applicant, do not address any of the criteria for waiver or adjustment of the fee. A permit applicant has the opportunity to pay the road fee associated with their project at any time once Public Works has reviewed the requirements and entered this information into the building permit tracking system. At the time of the Public Works review, the road fee amount is entered into a condition that is required to be met prior to permit issuance and becomes part of the building permit review comments and conditions.

Appeal point: The site is far from town and my road is not being improved.

Response: The Road Improvement Fee is used for major improvements that are expected to be needed to the major arterial and collector roads throughout the community, including needed improvements to all points of access to Highway 101, which benefits the surrounding rural area as well. It is not being used for the construction of local streets.

Appeal point: My taxes have gone up and will triple if I build the winery.

Response: Any additional property tax revenue will not comprise any of the budget for constructing roads in the unincorporated area. The Road Improvement Fee was developed because existing sources of funding were determined to be insufficient for constructing the needed improvements to the roadway network, as described above. By implementing this fee, new development is paying directly for the roadway improvements for which it is creating the need.

Appeal point: The winery will create jobs and contribute to the area's recognition.

Response: The employees, deliveries, and customers associated with this winery represent an increase of traffic on the area's roads. This forms the basis of the calculation of the Road Improvement Fee.

Prior Board History of Fee Appeals. Over the 16+ years of the Road Improvement Fee for Templeton, over \$9.8 million has been collected through payment of this fee with new development. During that time in the Templeton area, eleven appeals have been considered by your Board. Six of these were for single-family residences; four were denied, one was waived,

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and an adjustment was granted to the other. Three were commercial projects; one waived, one denied, and one adjusted. Two were church facilities; one was denied and one was adjusted.

Countywide, appeals of the fee for non-residential construction have been heard by your Board seventeen times. Two were denied and ten fee adjustments and five waivers were granted.

Other Agency Involvement/Impact

The building permit was processed by the Department of Planning and Building. We have reviewed this item with the office of County Counsel, who concurs with our recommendation.

Financial Considerations

The Templeton Circulation Study apportions over \$29 million to the payment of road improvement fees by new development. It also allocates approximately \$46 million to other sources, for some of which the County will be responsible to seek other sources of funding. Granting this appeal and adjusting the road improvement fee will result in a small increase in the County's share. Granting this appeal may also have the effect of encouraging other people to seek this same adjustment. This could result in substantial loss of road improvement fee revenue in the future.

Results

The result of the recommended action before your Board today will be a determination that the amount charged to the appellant was appropriate, and consistent with applicable legal requirements and Board Policy, and then no refund would be made.

Attachments: Exhibit A. Appeal letter from Donald R. Wasserman

c: Donald Wasserman
2650 Webster Street
San Francisco CA 94123

File: 830.120.03

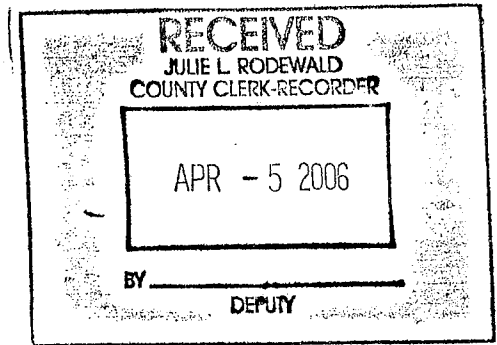
Reference: 05MAY23-H-1

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EXHIBIT A

DONALD R. WASSERMAN
2650 WEBSTER STREET
SAN FRANCISCO, CA 94123



March 30, 2006

Tim Tomlinson
Development Services
Department of Public Works
County Government Center Room #207
San Luis Obispo, CA 93408

PMT 2002-1169
Subject: Road Fee

FILED

APR 05 2006

JULIE L. RODEWALD COUNTY CLERK
C. Christensen
DEPUTY CLERK

In response to your letter dated March 1, 2006 , please accept this letter as an appeal to your Board of Supervisors.

My project of building a winery began approximately eight years ago. At that time I didn't have completed plans for the entire winery, only the plans for the wine cellar (7000 sq. ft. underground concrete and steel). The planner stated that a permit for the cellar would be issued. He also stated that when the remainder of the winery plans were completed that at such time a permit would be issued for the rest of the winery.

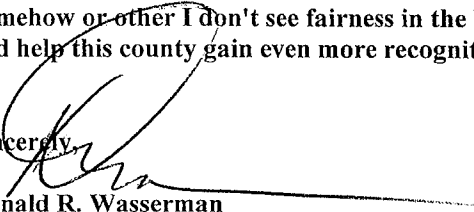
It has now been over six years since I submitted the plans for the remainder of the winery. The County had come up with numerous changes! The firm in charge of completing my plans, took a year off for a vacation! Everything completely stopped!!! In 2002 we resubmitted plans and now have a \$40,815.00 Road Fee and at a potential increase to \$51,390.00.

I believe the fee is unfair because of the difficulty of getting plans approved (codes and the required changes). The fact that I am eight and a half miles from the town and my road is not being improved (El Pomar Drive). The need for a winery, as there has been approximately 3000 acres of grapes planted within a mile of me.

- My taxes I have gone from \$3,500.00 to \$6,559.02 since I bought this property nine years ago. I expect that they will triple if I build the rest of the winery.

Somehow or other I don't see fairness in the Road Improvement fee as the winery would create jobs and help this county gain even more recognition for the largest industry in the county.

Sincerely,


Donald R. Wasserman

cc: Clerk, Board of Supervisors SLO

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